

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK ALLEN PORTER,

Petitioner,

v.

CASE NO. 2:06-CV-10729

GERALD HOFBAUER,

Respondent.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

**ORDER DENYING PETITIONER'S MOTION
FOR A PRELIMINARY INJUNCTION**

Petitioner Mark Allen Porter initiated this action by filing an application for the writ of habeas corpus under 28 U.S.C. § 2254. On March 1, 2006, the Court transferred Petitioner's case to the United States Court of Appeals as a second or successive habeas petition. Currently pending before the Court is Petitioner's motion for a preliminary injunction, which is dated March 9, 2006, and was filed by the Clerk of Court on March 10, 2006.

Petitioner alleges in his pending motion that the narrow issue in this habeas case is whether his felony-murder conviction should be vacated on double jeopardy grounds. He seeks a preliminary injunction to prevent the State of Michigan from holding him in custody.

The Court may not adjudicate Petitioner's claim until the Court of Appeals authorizes the Court to consider the application for a writ of habeas corpus. 28 U.S.C. § 2244(b)(3)(A). Accordingly, Petitioner's motion for a preliminary injunction is DENIED.

s/Paul D. Borman

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: September 5, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on September 5, 2006.

s/Denise Goodine

Case Manager